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Attorney for Defendant
DAVID TALCOTT USSERY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. Cr. S 05-34 LKK
)	
Plaintiff,)	STIPULATION AND ORDER TO REDUCE
)	SENTENCE PURSUANT TO 18 U.S.C.
v.)	§ 3582(c)(2)
)	
DAVID TALCOTT USSERY,)	<u>RETROACTIVE CRACK COCAINE</u>
)	<u>REDUCTION CASE</u>
Defendant.)	
)	
_____)	

Defendant, DAVID TALCOTT USSERY, by and through his attorney,
Assistant Federal Defender David M. Porter, and plaintiff, UNITED
STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney
MARY L. GRAD, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this court may reduce the
term of imprisonment in the case of a defendant who has been sentenced
to a term of imprisonment based on a sentencing range that has
subsequently been lowered by the Sentencing Commission pursuant to 28
U.S.C. § 994(o);

2. The sentencing range applicable to Mr. Ussery was
subsequently lowered by the United States Sentencing Commission in
Amendment 706 by two levels;

3. Accordingly, Mr. Ussery's offense level has been reduced, and an appropriate sentence within the new guideline range considering the factors set forth in 18 U.S.C. § 3553(a) would be 143 months;

4. Mr. Ussery merits a reduction in his sentence based on the factors listed in 18 U.S.C. § 3553(a), as well as considerations of public safety and Mr. Ussery's positive post-sentencing conduct;

5. Accordingly, the parties request the court to enter the order lodged herewith reducing Mr. Ussery's term of imprisonment to 143 months.

Dated: May 15, 2008

Respectfully submitted,

McGREGOR SCOTT
United States Attorney

DANIEL J. BRODERICK
Federal Defender

/s/ Anne E. Pings
ANNE E. PINGS
Assistant U.S. Attorney

/s/ David M. Porter
DAVID M. PORTER
Assistant Federal Defender

Attorney for Plaintiff
UNITED STATES OF AMERICA

Attorney for Movant
DAVID TALCOTT USSERY

ORDER

This matter came before the Court on the pro se motion of the defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) filed on March 10, 2008. The motion is set for hearing on July 8, 2008, but because the parties have stipulated to the resolution, the matter is taken off calendar.

On September 12, 2006, this Court sentenced Mr. Ussery to a term of imprisonment of 165 months. The parties agree, and the Court finds, that Mr. Ussery is entitled to the benefit of the retroactive amendment reducing crack cocaine penalties, and that an appropriate sentence within the new guideline range in light of the factors set forth in 18

STIPULATION AND ORDER TO REDUCE SENTENCE

1 U.S.C. § 3553(a) would be 143 months.

2 IT IS HEREBY ORDERED that the term of imprisonment originally
3 imposed is reduced to 143 months.

4 IT IS FURTHER ORDERED that all other terms and provisions of the
5 original judgment remain in effect.

6 Unless otherwise ordered, Mr. Ussery shall report to the United
7 States Probation office closest to the release destination within
8 seventy-two hours after his release.

9 Dated: May 22, 2008

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12 LAWRENCE K. KARLTON
13 SENIOR JUDGE
14 UNITED STATES DISTRICT COURT
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